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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,284	12/09/2003	Markus Nesper	HOE-790	4912
20028	7590	12/06/2007		
Lipsitz & McAllister, LLC 755 MAIN STREET MONROE, CT 06468			EXAMINER SHAFFER, RICHARD R	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 12/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Interview Summary</b>	<b>Application No.</b> 10/731,284	<b>Applicant(s)</b> NESPER ET AL.	
	<b>Examiner</b> Richard R. Shaffer	<b>Art Unit</b> 3733	

All participants (applicant, applicant's representative, PTO personnel):

(1) Richard R. Shaffer.

(3) Eduardo Robert.

(2) Douglas McAllister.

(4) \_\_\_\_\_.

Date of Interview: 29 November 2007.

Type: a) ☒ Telephonic    b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant    2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes    e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

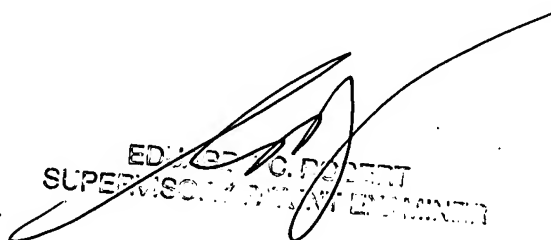
Identification of prior art discussed: Lerch et al (DE 199 52 359 C1).

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

  
 EDUARDO C. ROBERT  
 SUPERVISOR OF PATENT EXAMINERS

  
 11/29/07

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative, Douglas McAllister, contacted the Office to discuss the 35 U.S.C. 102(b) rejection over Lerch et al. Specifically, the same issues brought forth after the Non-Final Office action were discussed describing how Lerch et al meets the limitations for a "tension band" as well as "hook elements" capable of "penetrating" the tension band. After some quick web searching, a tension band was often times referred to as a "tension band wire." Thus a tensioned wire, could be considered a tensioned band wire. With that regard, applicant conceded the interpretation at least partially. In regard to penetration, it was again described that the two elements with pressed against each other would inherently penetrate their surfaces partially into one another and as required by the claim, the wire needs only to be capable of being fixed through penetration. Therefore, the device is inherently capable of having a notch formed therein to have the device "penetrate" into. Additional arguments were made that the openings (72) of Lerch et al could not be considered "hooks." It was again described that "hook" can be anything as simple as a structure that "captures" something else. Since the wedge-shape captures the band, it can be considered a hook. Applicant continued to disagree with the interpretations related to the hook and functional language, but stated that additional consideration would be taken once speaking again with his client before filing an RCE or Appeal.